IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6746 OF 2005

1. M/s Shri Hari Builders ... and anr. Petitioners

Vs

Raj Residency-I Co.op Hsg .. Respondent

Mr J.F.Reis, for the petitioners.

Mrs Sumedha Rao, for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 05.10.2005.

PC:

1. Rule, returnable forthwith. Mrs.Rao, learned counsel waives service for the respondent. By consent of the parties, petition is taken up for final hearing.

2. By this writ petition, the petitioner has impugned the order dated 11.8.2005 passed by the City Civil Court rejecting the application filed by the petitioners for condonation of delay in filing the written statement before 21.6.2005 as fixed by this Court vide order dated 14.6.2005. The City Civil Court rejected the application solely on the ground that it

has no power to extend the time granted by this Court vide order dated 14.6.2005.

3. I Heard the learned counsel for the parties. The delay in filing the written statement is only eight days. Mrs Rao, learned counsel for the respondent, fairly stated that if this Court is inclined to condone the delay in filing the written statement, the petitioners be directed to pay heavy cost. Mr Reis, learned counsel for the petitioners, on instructions, submitted that the petitioners are prepared to pay cost of Rs.5000/-. Keeping the submissions of the learned counsel in view and considering the overall facts and circumstances of the case, I am inclined to allow this petition and pass the following order.

(a) The writ petition is allowed. The order impugned is set aside. The application Exhibit-2 in S.C.Suit No.813 of 2005 is allowed subject to payment of costs of Rs.5000/- by cheque to the respondent within two weeks from today. The City Civil Court to take the written statement which is already filed, on record and proceed with the hearing of the suit in accordance with law.

(b) Rule is accordingly made absolute.

(D.B.BHOSALE, J.)